IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO.41 OF 2005

Abu Tayyab Rul Amin ...Applicant

Versus

The State of Maharashtra ...Respondent

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Mr.Niranjan S.Mundargi for Applicant.

Mr.K.V.Saste, A.P.P. for Respondent.

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CORAM: A.M.KHANWILKAR, J.

FEBRUARY 23, 2005.

P.C.

1. Heard Counsel for the Applicant.

2. I see no reason to interfere with the concurrent view taken by the two Courts below. The Courts below have rightly observed that in view of the stand of the Applicant, it was his case that he has acquired Indian citizenship by birth. The factum of his birth is not established, except by examining two defence witnesses, which is oral

evidence. No Birth Certificate has been brought on record. Even the factum of death of Applicant's parents in India has not been established, as no Death Certificate has been brought on record. Merely because Applicant is in possession of documents issued by the Authorities in India, does not discharge the burden of the Applicant as required under Section 9 of the Foreigners Act, 1946 to establish the factum that he was born in India and therefore has acquired Indian citizenship by birth. No case for interference is made out. Dismissed.

A.M.KHANWILKAR, J.